

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF COMMERCE

In the Matter of the Non-Residential
Insurance Producer's License of Mark
J. Strong and Non-Resident Insurance
Agency License of George F. Brown &
Sons, Inc.

**FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATION**

This matter came before Administrative Law Judge Manuel J. Cervantes (ALJ) on October 7, 2011, at 2:00 p.m., at the Office of Administrative Hearings (OAH), pursuant to a Scheduling Order, dated September 27, 2011.

Michael J. Tostengard, Assistant Attorney General, appeared on behalf of the Department of Commerce (Department). Neither Mark J. Strong nor George F. Brown & Sons, Inc. (Respondents) appeared after due notice. On October 17, 2011, the ALJ received the Department's written motion for a default recommendation. The record closed on October 27, 2011, upon the lapse of Respondents' last day for filing a response.¹

STATEMENT OF ISSUES

1. Did the Respondents engage in acts or practices that demonstrate that they are untrustworthy, financially irresponsible, or otherwise incompetent or unqualified to act under authority or license granted by the Commissioner, in violation of Minn. Stat. § 45.027, subd. 7(a) (4) (2010)?
2. Did the Respondents violate the insurance laws of another state's insurance commissioner, contrary to Minn. Stat. § 60K.43, subd. 1 (2) (2010)?
3. Have the Respondents been subjected to discipline in another jurisdiction, in violation of Minn. Stat. § 60K.43, subd. 1 (9) (2010)?
4. Did the Respondents fail to report to the Commissioner any administrative action that had been taken in another jurisdiction by another governmental agency within 30 days of the final disposition of the matter, in violation of Minn. Stat. § 60K.54, subd. 1 (2010)?

¹ Minn. R. 1400.6600 (2011).

The ALJ concludes that the Respondents have violated the provisions of Minnesota law enumerated above.

Based on the hearing record, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. Respondent Mark J. Strong was licensed as a non-resident insurance producer, license No. 28891. Effective December 28, 2010, Strong's license was cancelled.

2. Respondent Geo. F. Brown & Sons, Inc. has a non-resident insurance agency license (No. 20024642). Respondent Mark J. Strong is the responsible individual for the agency.

3. The following states have taken the following actions against Mark J. Strong:

State	Date	Description	Result
Illinois	10/07/2010	Failed to remit premium monies, issued 87 unlawful disbursements; demonstrated incompetence, untrustworthiness and financial irresponsibility	License revoked
Kentucky	09/07/2008 12/17/2009 06/17/2010	Surplus lines violation Failure to file annual reconciliation Failure to comply with previous order	\$1,250 penalty \$500 penalty License revoked
Massachusetts	05/04/2009	Failure to report other states' action	\$250 penalty
Missouri	05/19/2009	Failure to report other states' action	\$250 penalty
New York	09/17/2008	Failure to report other states' action	\$1,000 penalty
South Dakota	04/27/1993 09/17/2010	Failure to report other states' actions Failure to report other states' actions and failure to respond	\$100 penalty License revoked
Texas	07/24/2006	Failure to timely file	\$3,000

			penalty
Washington	08/13/2010	Failure to respond and action taken by Kentucky	License revoked

4. The following state has taken the following action against Geo. F. Brown & Sons, Inc.:

State	Date	Description	Result
Illinois	10/07/2010	Failed to remit premium monies, issued 87 unlawful disbursements; demonstrated incompetence, untrustworthiness and financial irresponsibility	License revoked

5. The Department discovered these violations based on information contained in an investigative file from the Illinois Department of Insurance. The Respondents failed to disclose any of the above-enumerated violations to the Department.

6. On July 29, 2011, the Department served Respondents with a Notice of and Order for a Prehearing Conference, Order to Show Cause, and Statement of Charges and thereby scheduled an October 5, 2011 prehearing conference.

7. On September 27, 2011, the undersigned Administrative Law Judge rescheduled the Prehearing Conference to October 7, 2011. Neither Notice was returned to sender as "Undeliverable".

8. The Notice of and Order for a Prehearing Conference, Order to Show Cause, and Statement of Charges stated that Respondents would be held in default if he failed to attend the prehearing conference. Specifically, the notice stated:

Respondents' failure to appear at the prehearing conference or hearing may result in a finding that Respondents are in default, that the Department's allegations contained in the Statement of Charges may be accepted as true, and that its proposed disciplinary action may be upheld.

9. Respondents failed to appear at the duly noticed prehearing conference on October 7, 2011. At no time did Respondents contact the undersigned ALJ to request a continuance or seek other relief.

CONCLUSIONS OF LAW

1. Respondent is in default.

2. The ALJ accepts the allegations contained in the Notice of and Order for a Prehearing Conference, Order to Show Cause, and Statement of Charges as true.²

3. This Order is in the public interest.

Based upon these Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

That the Commissioner of Commerce discipline, censure, and/or impose an appropriate civil penalty against Mark J. Strong.

Dated: November 29, 2011

/s/ Manuel J. Cervantes

MANUEL J. CERVANTES
Administrative Law Judge

Reported: No Digital Recording

NOTICE

This report is a recommendation, not a final decision. The Commissioner of the Minnesota Department of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Michael Rothman, Commissioner, Department of Commerce, 85 Seventh Place East, Suite 500, St. Paul, MN 55101, (651) 296-6025 to learn about the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this Report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the Report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

² Minn. R.1400.6000 (2011).